

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-1748

13 **EDITH BOYD, a.k.a. EDITH ARROYO**
14 **4456 Dumas Street**
15 **Napa, CA 94558**
16 **Registered Nurse License No. 700546**

ACCUSATION

Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about March 21, 2007, the Board of Registered Nursing issued Registered
23 Nurse License Number 700546 to Edith Boyd, also known as Edith Arroyo (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 in this Accusation and will expire on May 31, 2012, unless renewed.

1 JURISDICTION

2 3. This Accusation is brought before the Board of Registered Nursing (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
6 that the Board may discipline any licensee, including a licensee holding a temporary or an
7 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
8 Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Under section 2811,
12 subdivision (b), of the Code, the Board may renew an expired license at any time within eight
13 years after the expiration.

14 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the
15 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
16 action during the period within which the license may be renewed, restored, reissued or
17 reinstated.

18 STATUTORY AND REGULATORY PROVISIONS

19 7. Section 2761 of the Code states:

20 "The board may take disciplinary action against a certified or licensed nurse or deny an
21 application for a certificate or license for any of the following:

22 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

23 ...

24 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
25 functions, and duties of a registered nurse, in which event the record of the conviction shall be
26 conclusive evidence thereof."

1 8. Section 2762 of the Code states:

2 "In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5 ...

6 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her
10 ability to conduct with safety to the public the practice authorized by his or her license.

11 "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-
12 administration of any of the substances described in subdivisions (a) and (b) of this section, or the
13 possession of, or falsification of a record pertaining to, the substances described in subdivision (a)
14 of this section, in which event the record of the conviction is conclusive evidence thereof."

15 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 10. California Code of Regulations, title 16, section 1444, states:

20 "A conviction or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a registered nurse if to a substantial degree it evidences the present or
22 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
23 safety, or welfare."

24 COST RECOVERY

25 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)
3 (Bus. & Prof. Code §§ 2761, subd. (a), 2762, subd. (b))

4 12. Respondent has subjected her registered nurse license to disciplinary action under
5 Code section 2761, subdivision (a), as defined by Code section 2762, subdivision (b), in that she
6 engaged in unprofessional conduct by using alcohol in a dangerous manner. The circumstances
7 are as follows:

8 13. On or about January 2, 2010, Respondent was involved in a property damage only
9 collision in Napa, California. The Napa County Sherriff's Department and the California
10 Highway Patrol (CHP) responded to the scene of the accident. One of the CHP officers
11 responded to the scene at 7:00 p.m., approximately one half hour after the collision occurred. The
12 officer suspected that Respondent had been driving under the influence and he administered field
13 sobriety tests to Respondent, which she performed poorly. Respondent provided two weak breath
14 samples. The first breath sample, taken at 7:06 p.m., showed that Respondent had a blood alcohol
15 content of .164 percent. The second blood sample, taken at 7:11 p.m., showed that Respondent
16 had a blood alcohol content of .153 percent. Respondent was arrested for driving under the
17 influence of alcohol at approximately 7:12 p.m. Respondent was placed under arrest and advised
18 of implied consent. Respondent chose the blood test.

19 SECOND CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct – Conviction)
21 (Bus. & Prof. Code §§ 490, 2761, subd. (f), 2762, subd. (c); Cal. Code Regs, tit. 16, § 1444)

22 14. Complainant realleges the allegations contained in paragraphs 12 and 13 above, and
23 incorporates them by reference as if fully set forth.

24 15. Respondent has subjected her registered nurse license to disciplinary action under
25 Code sections 490, 2761, subdivision (f), and 2762, subdivision (c), within the meaning of
26 California Code of Regulations Title 16, section 1444, in that she was convicted of a crime
27 involving the consumption of alcohol which is substantially related to the qualifications,
28 functions, and duties of a registered nurse. Specifically, on or about July 8, 2010, in a criminal
matter entitled *The People of the State of California v. Edith Boyd*, in Napa County Superior

1 Court, Case Number CR150443, Respondent was convicted by plea of nolo contendere to one
2 count of violating Vehicle Code section 23152, subdivision (b) (driving under the influence with
3 a blood alcohol level of .08 percent or more), with an enhancement of Vehicle Code section
4 23578 (driving with a blood alcohol content of .15 percent or more), a misdemeanor. Based upon
5 Respondent's conviction together with her high blood alcohol content of .19 percent, as well as
6 her prior conviction, the Court sentenced Respondent to thirty days in jail and placed her on
7 probation for three years. Respondent was also ordered to: (1) pay fees, fines, and restitution; (2)
8 submit to a search of her person, residence, vehicle, and property by a probation officer or any
9 law enforcement officer at any time without a warrant and without probable cause; (3) not drink
10 or possess alcoholic beverages; (4) not operate a motor vehicle with a measureable amount of
11 alcohol in her blood; (5) submit to a blood, breath, or urine test if requested by any law
12 enforcement or probation officer; (6) enroll in, pay for, and successfully complete an 18 month
13 alcohol treatment program; and (7) for two years, not operate a vehicle unless it is equipped with
14 a functioning, certified ignition interlock device.

15 DISCIPLINARY CONSIDERATIONS

16 16. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that on or about August 27, 2005, Respondent was arrested for driving under
18 the influence of alcohol in Napa County. Respondent was contacted by a Napa Police Officer
19 after the officer found her vehicle parked in the roadway with its engine running and the lights on.
20 Respondent displayed objective signs of intoxication and she told the officer that she had
21 consumed three beers. The officer administered field sobriety tests which Respondent performed
22 poorly. Respondent then took two breath tests on the Preliminary Alcohol Screening device. The
23 first test showed that Respondent had a blood alcohol content of .17 percent, and the second test
24 showed that she had a blood alcohol content of .15 percent. Respondent was arrested and took
25 two Evidential Portable Alcohol System (EPAS) tests. The results of both EPAS tests showed
26 that Respondent had a blood alcohol content of .14 percent.

27 17. Furthermore, on or about September 21, 2005, in a criminal matter entitled *The*
28 *People of the State of California v. Edith Arroyo*, in Napa County Superior Court, Case Number

1 CR124805, Respondent was convicted by plea of no contest to one count of violating Vehicle
2 Code section 23152, subdivision (a) (driving under the influence). Respondent was sentenced to
3 two days in jail and placed on probation for five years. Respondent was ordered to: (1) pay fees,
4 fines, and restitution; (2) not drink alcoholic beverages to excess; (3) not operate a motor vehicle
5 with a measureable amount of alcohol in her blood; (4) submit a blood, breath, or urine test, if
6 requested by any law enforcement or probation officer; (5) immediately enroll in, pay for, and
7 successfully complete and four and one half month first offender drinking driver program; and (6)
8 drive with a restricted license for 90 days.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
11 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 700546, issued to Edith
13 Boyd, also known as Edith Arroyo;
- 14 2. Ordering Edith Boyd, also known as Edith Arroyo to pay the Board of Registered
15 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
16 Business and Professions Code section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.
- 18

19
20
21 DATED: 3/24/11

for 
22 LOUISE R. BAILEY, M.ED., RN
23 Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant

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